

September 19, 2012

**BY ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Petition for Stay of East Ascension Telephone Company  
WC Docket Nos. 10-90 and 05-337 – Ex Parte Letter

Dear Ms. Dortch:

East Ascension Telephone Company (“EATEL”) submits this letter in response to the Notice of Oral Ex Parte Communications submitted by Cox Communications, Inc. (“Cox”) on July 9, 2012 in the above-referenced dockets (“Cox Ex Parte”).<sup>1</sup> Although the Wireline Competition Bureau (“Bureau”) had already issued an Order<sup>2</sup> on the EATEL petition requesting a stay of the Bureau’s *HCLS Benchmarks Implementation Order*,<sup>3</sup> Cox conducted an ex parte meeting, filing the notice of such meeting under the caption of EATEL’s Petition for Stay as an opportunity to discuss alleged service overlaps in areas where Cox and EATEL customers are located. Cox makes a number of broad sweeping statements about EATEL’s service areas, customer density, and universal service support amounts, suggesting that there is greater competition in EATEL’s service area than Cox has documented and that the universal service support that EATEL receives is not necessary. To the extent that the Cox Ex Parte has any bearing on the Commission’s ongoing review of EATEL’s Application for Review of the *HCLS*

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<sup>1</sup> See Letter from J.G. Harrington, Counsel to Cox Communications, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, *Petition of Acceptor Communications, Inc. for Temporary Waiver*, WC Docket Nos. 10-90 and 10-208; *Petition for Stay of East Ascension Telephone Company*, WC Docket Nos. 10-90 and 05-337, Notice of Oral Ex Parte Communications (filed July 9, 2012).

<sup>2</sup> See *Connect America Fund; High-Cost Universal Service Support*, Order, WC Docket Nos. 10-90 and 05-337, DA 12-997 (rel. June 26, 2012) (“Order”); see also *Connect America Fund; High-Cost Universal Service Support*, Petition for Stay of East Ascension Telephone Company, LLC, WC Docket Nos. 10-90 and 05-337 (filed May 25, 2012) (“Petition for Stay”).

<sup>3</sup> See *Connect America Fund; High-Cost Universal Service Support*, Order, WC Docket Nos. 10-90 and 05-337, DA 12-646 (rel. April 25, 2012) (“*HCLS Benchmarks Implementation Order*”).

*Benchmarks Implementation Order*,<sup>4</sup> EATEL submits this response to highlight a number of inaccuracies in the Cox Ex Parte as well as the unreliability of Cox's statements about EATEL's service areas, customer density, and universal service support amounts.

Cox claims that it provides overlapping, competitive service in five of the six EATEL exchanges,<sup>5</sup> but it provides no supporting documentation to demonstrate how much of any of these exchanges that it serves. There is nothing to suggest that these statements about competition are anything more than self-serving comments. In fact, EATEL's review of the National Broadband Map suggests that Cox has a nominal presence only in one of the five exchanges that Cox serves. Moreover, EATEL has encountered concentrated competition from Cox in EATEL's most densely populated areas, but not in EATEL's most rural areas. Cox's statements about its competitive offerings overlook an important distinction between EATEL and Cox, namely that Cox has no provider of last resort ("POLR") obligations, unlike EATEL, and Cox chooses where to compete based on there being sufficient market concentration. However, EATEL must be prepared to offer service wherever requested in its service area, even at the most remote locations where there may only be one customer. Cox has provided no noteworthy documentation in support of its claims about the status of competition in EATEL's service area.

Cox suggests that the customer density of EATEL's service area should be evaluated on the basis that it includes lakes and fishing camps, claiming that these are areas where nobody lives or will live.<sup>6</sup> While EATEL disputes Cox's claim that lakes and fishing camps constitute a "large portion" of the EATEL service area, the mere presence of lakes and fishing camps does not distort customer density because customers do live, work and vacation in these areas. It is common in Louisiana in general, and in EATEL's service area specifically, that customers live, work, and vacation in lake communities and fishing camp regions. Notably, these areas contain a large number of schools, evidencing that they are home to customers who have a right to demand telecommunications services. Even if these lake communities and fishing camp regions have lower customer density than other areas in the EATEL service area, EATEL is still obligated as the POLR to serve the residents, businesses, and vacationers at these locations. Unlike its competitors, EATEL may not "pick and choose," "cream skim" or "cherry pick" its customers. Cox's statements are simply inaccurate.

Cox makes broad sweeping, but unclear statements about the level of service by competitors in EATEL's service area.<sup>7</sup> Cox has offered no information explaining what it means by households being served by competitors or the type of service offered to customers. In its own research, EATEL's findings indicate that one of the two cable television providers in

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<sup>4</sup> See *Connect America Fund; High-Cost Universal Service Support*, EATEL Application for Review of Action Taken Pursuant to Delegated Authority, WC Docket Nos. 10-90 and 05-337 (filed May 25, 2012) ("Application for Review").

<sup>5</sup> See Cox Ex Parte, Attachment at 2.

<sup>6</sup> See Cox Ex Parte, Attachment at 2.

<sup>7</sup> See Cox Ex Parte, Attachment at 2.



EATEL's service area does not offer local telephone service. That cable competitor does not have a local service tariff that includes service offerings in the EATEL exchanges, nor does it have any interconnection arrangements with EATEL. Further, as EATEL has noted above, Cox itself provides no documentation about the amount of service coverage it provides in the five of six EATEL exchanges where it operates. Although Cox claims that 97 percent of the households in EATEL's service area are served by competitors, these claims are unsupported and unreliable. Cox has not demonstrated that there is robust competition in EATEL's service area and has not justified reducing support to EATEL, the critical POLR.

Cox makes irrelevant comparisons between EATEL's service area and that of CenturyTel-Evangeline in its effort to prove that EATEL should receive less universal service support.<sup>8</sup> Yet, Cox fails to acknowledge the different regulatory structures under which CenturyLink and EATEL operate when distinguishing the amount of support provided to each carrier, even assuming that the differences in support between EATEL and CenturyTel-Evangeline noted by Cox are accurate. Simply stated, CenturyLink is a price cap carrier and EATEL is a rate-of-return carrier. This difference in regulatory classification at the federal level is a driving factor in the amount of federal universal service support that each carrier receives. Moreover, a facial comparison of the different support amounts between these two companies does not necessarily take into account the differences in geography, investments made, services offered or customer base of each entity, which are relevant factors for understanding the need for different support amounts. Cox's comparison of EATEL to CenturyTel-Evangeline is a red herring argument.

Cox's statements about the expansion efforts of EATEL's competitive local exchange carrier ("CLEC") operations<sup>9</sup> appear to be nothing more than an attempt to distract the Commission from the issue before it, which is the amount of universal service support to be provided to EATEL's incumbent local exchange carrier ("ILEC") in the exchanges where it provides the POLR service. EATEL's CLEC services are provided by a different company than the company providing its ILEC services. Accordingly, like any of its competitors, EATEL's CLEC makes prudent business decisions to expand service offerings where it makes business sense, specifically where it can offer competitive services and realize a sufficient return on its investments. The need for universal service support for EATEL's ILEC operations is not determined by the business decisions made by EATEL's CLEC. Rather, the needs of the ILEC are tied to the costs involved in serving the most rural and high-cost areas of EATEL's ILEC service area, as well as the POLR obligation to serve all such areas upon request. The competitive efforts by EATEL's CLEC have no bearing on the universal service support needed by EATEL's ILEC.

EATEL has identified many broad sweeping statements made in the Cox Ex Parte that are unsupported, unreliable, or inaccurate. As the Commission continues to consider EATEL's Application for Review of the *HCLS Benchmarks Implementation Order*, the Commission should weigh the information provided by EATEL regarding the level of competition within its

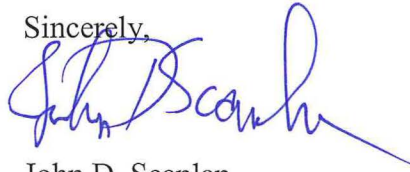
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<sup>8</sup> See Cox Ex Parte, Attachment at 2.

<sup>9</sup> See Cox Ex Parte, Attachment at 2.

service areas, the requirements for serving customers across the diverse geography of its service area, and the basis and necessity for ongoing universal service support, as described herein.

Sincerely,

A handwritten signature in blue ink, appearing to read "John D. Scanlan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John D. Scanlan